

MATTHEW J. McKEOWN
Acting Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
Washington, D.C.
NELSON COHEN
United States Attorney
Anchorage, Alaska
MARK A. NITCZYNSKI
US Department of Justice
Environmental Defense Section
1961 Stout Street - 8th Floor
Denver, CO 80294
Phone: (303) 844-1498
Fax: (303) 844-1350
RICHARD L. POMEROY
DANIEL COOPER
Assistant United States Attorney
District of Alaska
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9
Anchorage, Alaska 99513
Telephone: (907) 271-5071

Attorneys for Plaintiff United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
CLARENCE ABELDGAARD,) Case No. A-01-378 Civil (RRB)
OCEANVIEW ENTERPRISES, INC.,)
CLOYD MOSER and MODEB)
INVESTMENTS,)
Defendants.)
UNITED STATES' JANUARY 26, 2007 STATUS REPORT

Pursuant to the Court's January 11, 2007 Minute Order From Chambers Requesting Status Report (Docket No. 156), Plaintiff United States of America ("United States") hereby

submits this Status Report.

1. As this Court is aware, the United States' claims under the Second Amended Complaint against Clarence Abeldgaard, Oceanview Enterprises, Inc. ("Oceanview") and Geraldine Barling have not been resolved.^{1/}
2. After much litigation against Mr. Abeldgaard on Oceanview, resulting in a grant of summary judgment against both of those defendants, on September 30, 2005 the United States filed its Motion to Amend Complaint to Add Geraldine Barling as a Defendant, based on piercing the corporate veil of Oceanview. The Court granted that motion on November 3, 2005.
3. After the United States promptly filed and served the Second Amended Complaint, counsel for Ms. Barling filed three motions for extensions of time to file an answer. See Docket Nos. 145, 147, 149. In order to facilitate settlement discussions with Ms. Barling, the United States did not oppose those motions. The Court granted those motions, resulting in a final due date of May 26, 2006. See Docket No. 150.
4. As of January 25, 2007, no answer had been filed on behalf of Ms. Barling. While the United States and Ms. Barling previously had been engaged in settlement negotiations, Ms. Barling had been extremely slow in responding to the United States' settlement proposals, and had not responded at all to the United States' most recent proposal, which was sent on November 2, 2006. In addition, the litigation had not been stayed, and the United States had continued to maintain all of its rights in the litigation. See Docket No. 155 (Status Report filed

^{1/} On July 6, 2005, the Court entered the Consent Decree With Defendants Cloyd Moser and Modeb Investments, which resolved the liability of Cloyd Moser and Modeb Investments under the First Amended Complaint.

November 2, 2006) at 3; Docket No. 153 (Status Report filed August 23, 2006) at 3.

5. Accordingly, on January 25, 2007, the United States filed the United States' Request That Clerk of Court Enter Default Against Geraldine Barling Pursuant to Fed. R. Civ. P. 55(a) for Failure to Answer Second Amended Complaint ("Request for Entry of Default"). Docket No. 157-1.

6. Thereafter, earlier today counsel for Ms. Barling filed: (1) a response in opposition to the Request for Entry of Default, Docket No. 158; (2) a motion for extension of time to file an answer, Docket No. 159; (3) an answer, Docket No. 160; and (4) a motion for leave to withdraw as attorney, Docket No. 161, along with an affidavit in support of that motion. Docket No. 162.

7. The United States will respond appropriately to Ms. Barling's filings. In addition, the United States suggests that it file a status report within thirty (30) days.

Respectfully submitted,

MATTHEW J. McKEOWN
Acting Assistant Attorney General
Environment and Natural Resources Division
UNITED STATES DEPARTMENT OF JUSTICE

/s/ Mark A. Nitczynski
MARK A. NITCZYNSKI
Environmental Defense Section
UNITED STATES DEPARTMENT OF JUSTICE
1961 Stout Street - 8th Floor
Denver, CO 80294
PHONE: (303) 844-1498
FAX: (303) 844-1350

NELSON COHEN
United States Attorney
District of Alaska

RICHARD L. POMEROY
Assistant U.S. Attorney

OF COUNSEL:
DAVID ALLNUTT
U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION X
Seattle, Washington

Attorneys for Plaintiff United States

CERTIFICATE OF SERVICE

I, Mark A. Nitczynski, certify that on this January 26, 2007, I caused to be filed electronically the foregoing UNITED STATES' JANUARY 26, 2007 STATUS REPORT with the Clerk of Court using the CM/ECF system, which sends a Notice of Electronic Filing to Darryl L. Thompson (counsel for Defendant Geraldine Barling), and that I caused hard copies of the foregoing to be served by United States mail on the following persons:

Lawrence V. Albert
P.O. Box 200934
Anchorage, AK 99520

Counsel for Cloyd Moser and Modeb Investments

C.E. Abeldgaard
Oceanview Enterprises, Inc.
P.O. Box 891
Homer, Alaska 99603

Pro Se

/s/ Mark A. Nitczynski
MARK A. NITCZYNNSKI